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**SOAH DOCKET NO. 473-21-0538  
PUC DOCKET NO. 51415**

<b>APPLICATION OF SOUTHWESTERN</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>ELECTRIC POWER COMPANY FOR</b>	<b>§</b>	
<b>AUTHORITY TO CHANGE RATES</b>	<b>§</b>	<b>OF TEXAS</b>

**NUCOR STEEL LONGVIEW, LLC'S  
REPLY TO EXCEPTIONS TO THE PROPOSAL FOR DECISION**

**October 28, 2021**

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**I. Introduction**

On August 27, 2021, the State Office of Administrative Hearings (“SOAH”) administrative law judges (“ALJs”) issued their Proposal for Decision (“PFD”) regarding Southwestern Electric Power Company’s (“SWEPCO” or “Company”) application for authority to change rates in the above-captioned proceeding. Thereafter, in response to the Public Utility Commission of Texas’ (“Commission”) Memorandum, parties filed Exceptions to the PFD (“Exceptions”) by October 7, 2021.<sup>1</sup> Pursuant to Tex. Admin. Code § 22.261(d) and the Commission Memorandum, Nucor Steel Longview, LLC (“Nucor”) files its Reply to Exceptions to the PFD (“Reply”).<sup>2</sup>

Nucor appreciates the ALJs’ thoughtful deliberation in this case and while Nucor does not agree with every element of the PFD, Nucor believes the PFD represents a reasonable compromise among the parties’ positions. Accordingly, Nucor did not file Exceptions to the PFD. Nucor files this Reply to respond to Exceptions filed by Commission Staff (“Staff”), SWEPCO, and Cities Advocating Reasonable Deregulation (“CARD”). The Commission should accept the PFD’s revenue distribution/gradualism recommendation and reject Staff’s multi-year phase-in rate mechanism. Also, if the PFD does not already do so, the Commission should adopt Staff’s request that SWEPCO’s proposed base rate revenue increase be calculated inclusive of Transmission Cost Recovery Factor (“TCRF”) and Distribution Cost Recovery Factor (“DCRF”) revenues. Finally, the Commission should adopt CARD’s recommended rate of return on equity (“ROE”) of 9.00% and reject SWEPCO’s requested ROE of at least 9.60%.

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<sup>1</sup> Commission Memorandum, re PUC Docket No. 51415, SOAH Docket No. 473-21-0538 (Sept. 20, 2021).

<sup>2</sup> This Reply follows the outline of the PFD—sections not addressed are omitted. Citations herein to exhibits reflect the page numbers shown on the exhibits admitted at the hearing on the matter; where there could be confusion, the type of page number cited herein is identified in the initial citation to the particular exhibit.

## **VI. Rate of Return [PO Issues 4, 5, 7, 8, 9]**

### **A. Return on Equity [PO Issue 8]**

In setting SWEPCO's overall cost of capital and rate of return, the Commission should adopt CARD witness Dr. J. Randall Woolridge's recommended ROE of 9.00%. CARD excepts to the ALJs' recommendation to authorize an ROE of 9.45% for SWEPCO, arguing that the record evidence supports Dr. Woolridge's ROE and that an ROE of 9.00% is within the range of reasonableness identified by the ALJs.<sup>3</sup> Nucor agrees with CARD that Dr. Woolridge established that projected earnings per share ("EPS") growth rates for electric utilities have been "overly-optimistic and upwardly-biased."<sup>4</sup> Furthermore, Nucor agrees that no party credibly contested Dr. Woolridge's findings that "interest rates and capital costs are at historically low levels, utilities are raising capital in record amounts, and stock prices are at historic highs."<sup>5</sup> Therefore, based on the record evidence in this case, the Commission should adopt CARD's exception to the PFD regarding SWEPCO's authorized ROE, and the Commission should authorize an ROE of 9.00% for SWEPCO.

Similarly, the Commission should reject SWEPCO's exception to the PFD to modify the recommended ROE from 9.45% to at least 9.60%. SWEPCO's exception argues two points: that a 9.45% ROE is below the average authorized ROE for entities with comparable risk and that the PFD range of reasonable ROEs should extend to 10.2%.<sup>6</sup> However, there is no requirement that an authorized ROE be set equal to the average authorized ROE for similarly situated utilities, and SWEPCO acknowledges as much in its Exceptions, stating "the Commission is not bound by average authorized ROEs."<sup>7</sup> As highlighted by SWEPCO, the U.S. Supreme Court requires that equity returns be, in part, "commensurate with returns on investments in other enterprises having corresponding risks."<sup>8</sup> However, "commensurate" does not mean equal to, and the 9.00% ROE

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<sup>3</sup> CARD's Exceptions to the PFD at 6.

<sup>4</sup> *Id.* at 5; *see also* CARD Ex. 4, Direct Testimony of Dr. J. Randall Woolridge at 36:6-13 (native page nos.) (explaining that the use of EPS growth rates as the Discounted Cash Flow ("DCF") growth rate will result in an overstated equity cost rate).

<sup>5</sup> CARD's Exceptions to the PFD at 6; *see also* CARD Ex. 4, Direct Testimony of Dr. J. Randall Woolridge at 7:26-9:17 (describing the state of recent financial markets and explaining how the capital cost environment and low interest rates have allowed electric utilities to raise record amounts of capital).

<sup>6</sup> *See* SWEPCO's Exceptions to the PFD at 39-41.

<sup>7</sup> *Id.* at 40.

<sup>8</sup> *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); *see also Bluefield Waterworks &*

recommended by Dr. Woolridge, and certainly the 9.45% ROE recommended by the PFD, would be commensurate with other utility ROEs under the *Hope* and *Bluefield* standard. For these reasons, even if the range of reasonableness were extended to 10.2% as recommended by SWEPCO, both 9.00% and 9.45% would fall within the 9.00%-10.2% range and would be “reasonable.” Therefore, the Commission should reject SWEPCO’s exception to allow SWEPCO an authorized ROE of at least 9.6%.

**X. Revenue Distribution and Rate Design [PO Issues 4, 5, 47, 48, 52, 59, 60, 61, 62, 75, 76, 77, 78, 79]**

**A. Rate Moderation/Gradualism [PO Issue 52]**

**1. When allocating revenues, the Commission should consider TCRF and DCRF revenues in SWEPCO’s current base rate revenues**

As an initial matter, Nucor addresses Staff’s exception regarding the PFD’s evaluation of present revenues. Staff states that the PFD does not require SWEPCO to include TCRF and DCRF revenues in current revenues when SWEPCO calculates its proposed base rate increase; Staff argues that SWEPCO should be required to calculate the base rate increase inclusive of TCRF and DCRF revenues in this proceeding.<sup>9</sup> Nucor takes the same position.<sup>10</sup> While Nucor reads the PFD to already require SWEPCO to consider TCRF/DCRF revenues,<sup>11</sup> if Staff’s reading of the PFD is correct on this point, Nucor supports Staff’s exception to ensure that TCRF and DCRF revenues *are included* in current revenues for revenue distribution purposes.

**2. The Commission should accept the PFD-recommended gradualism approach**

The Commission should adopt the PFD’s recommended revenue distribution and gradualism approach. Several parties filed testimony on revenue distribution and gradualism, including Nucor, and while Nucor stands by its recommendations, Nucor supports the revenue distribution and gradualism approach recommended by the PFD as it results in a reasonable

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*Improvement Co. v. Pub. Serv. Comm’n of W. Va.*, 262 U.S. 679, 692-93 (1923); SWEPCO’s Exceptions to the PFD at 39.

<sup>9</sup> Staff’s Exceptions to the PFD at 11.

<sup>10</sup> See Nucor Initial Brief at 4-5.

<sup>11</sup> The PFD indicates that (i) SWEPCO should follow a similar approach as approved in SWEPCO’s last rate case, Docket No. 46449, where the Commission required “that a class’s present revenues should be evaluated inclusive of existing TCRF and DCRF revenues, which are base-rate-related revenues,” (PFD at 299 (citing Docket No. 46449, Order on Rehearing at 48, FoF Nos. 312-314 (Mar. 19, 2018))), and (ii) per PFD Finding of Fact Number 266, “All present base rate-related revenues, *inclusive of TCRF and DCRF revenues*, are the appropriate starting point for evaluating any rate increase.” (*Id.* at 367, FoF No. 266 (emphasis added)).

compromise. The PFD-recommended revenue distribution moves all classes closer to cost of service while capping the rate increase for three small classes that were significantly below unity.<sup>12</sup>

Staff's proposed revenue distribution aims to set class rates equal to each class's cost of service over the course of four years. As explained in Nucor witness James W. Daniel's testimony, Staff's revenue distribution proposal generally incorporates witness Daniel's revenue distribution objectives.<sup>13</sup> However, the PFD explains how Staff's phase-in proposal "is cumbersome in that it would require a rate change for the three targeted classes every year for four years," is not supported by Commission precedent, and the unintended consequences of the proposal are unknown.<sup>14</sup> As such, the Commission should reject Staff's gradualism proposal and instead should accept the ALJs' recommended revenue distribution and gradualism approach.

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<sup>12</sup> *Id.* at 300-301.

<sup>13</sup> See Nucor Ex. 1, Direct Testimony of James W. Daniel at 16:4-7 (native page nos.) ("'[I]deally' all rate class revenues should recover their cost of service. . . . Cost based rates are more efficient and send appropriate price signals to customers."); Nucor Ex. 2, Cross-Rebuttal Testimony of James W. Daniel at 6:15-8:6 (native page nos.) (highlighting the similarities between witness Daniel's and Staff's proposed revenue distribution methodologies and explaining the problems with Staff's four-year phase-in proposal).

<sup>14</sup> PFD at 300-301.

#### **XIV. Conclusion**

Wherefore, Nucor respectfully requests that the Commission (1) adopt CARD's exception to the PFD and reduce the ALJs' recommended ROE for SWEPCO from 9.45% to 9.00%; (2) reject SWEPCO's exception that would increase its authorized ROE to at least 9.6%; (3) adopt or confirm that SWEPCO is required to include TCRF/DCRF revenues in current base rate revenues when calculating revenue distribution; and (4) accept the PFD-recommended revenue distribution and gradualism approach.

Respectfully submitted,

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**AUTHORIZED REPRESENTATIVES FOR  
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#### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was served via electronic transmission, hand delivery and/or U.S. mail to all parties of record this 28th day of October 2021.

/s/ Joseph R. Briscar

Joseph R. Briscar